

REAL ESTATE COMMISSION[193E]

Notice of Intended Action

Twenty-five interested persons, a governmental subdivision, an agency or association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code section 17A.4(1)“b.”

Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under section 17A.8(6) at a regular or special meeting where the public or interested persons may be heard.

Pursuant to the authority of Iowa Code section 543B.9, the Real Estate Commission hereby gives Notice of Intended Action to amend Chapter 7, “Offices and Management,” Chapter 16, “Prelicense Education and Continuing Education,” and Chapter 17, “Approval of Schools, Courses and Instructors,” Iowa Administrative Code.

The proposed amendments implement 2017 Iowa Acts, House File 541, section 4, which amends Iowa Code section 543B.31 to allow for a real estate broker to be the designated broker of more than one branch office within the state. The proposed amendments are also a result of the five-year rolling review of administrative rules outlined in Iowa Code section 17A.7(2), along with input from and concerns expressed by leadership of the professional association of real estate licensees in regard to the prelicense education requirements for real estate brokers and in regard to establishing a passing score standard for distance learning courses and paper and pencil home-study courses.

Chapter 7 describes the general requirements for real estate offices and management. The proposed amendments to Chapter 7 will allow for a real estate broker to be the designated broker of more than one branch office within the state, will allow for licenses to be electronically submitted to the Commission, and will provide for a general cleanup of the chapter. Chapter 16 describes the general requirements for prelicense education and continuing education for real estate licensees. The proposed amendments to Chapter 16 will remove old education requirements that have since been updated, change the prelicense education courses for real estate brokers beginning January 1, 2020, and provide for a general cleanup of the chapter. Chapter 17 describes the general requirements for approval of schools, courses, and instructors that provide prelicense and continuing education to real estate licensees. The proposed amendments to Chapter 17 will give instructors discretion on whether or not to issue an attendance certificate to a student and will establish a passing score standard for distance learning courses and paper and pencil home-study courses.

Consideration will be given to all written suggestions or comments received on or before July 25, 2017. Comments should be directed to Jeffrey Evans, Iowa Real Estate Commission, 200 East Grand Avenue, Suite 350, Des Moines, Iowa 50309. E-mail may be sent to jeff.evans@iowa.gov.

A public hearing will be held on July 25, 2017, at 12 noon in the Commission Office, 200 East Grand Avenue, Suite 350, Des Moines, Iowa, at which time persons may present their views on the proposed amendments either orally or in writing. At the hearing, any person who wishes to speak will be asked to give the person’s name and address for the record and to confine remarks to the subject of the proposed amendments.

Any persons who intend to attend the public hearing and have special requirements, such as those relating to hearing or mobility impairments, should contact the Real Estate Commission and advise of specific needs.

These amendments are subject to waiver or variance pursuant to 193—Chapter 5.

These proposed amendments were approved by the Commission on October 6, 2016, and June 1, 2017.

After analysis and review of this rule making, the Professional Licensing and Regulation Bureau determined that there will be no impact on jobs and no fiscal impact to the state.

These amendments are intended to implement Iowa Code section 543B.9 and section 543B.31 as amended by 2017 Iowa Acts, House File 541.

The following amendments are proposed.

ITEM 1. Amend rule 193E—7.1(543B) as follows:

193E—7.1(543B) Real estate offices and licenses required.

7.1(1) and **7.1(2)** No change.

7.1(3) Branch office. A ~~resident~~ licensed Iowa real estate firm or ~~proprietor~~ sole-proprietor broker maintaining a branch office shall display ~~two~~ a commission-issued branch office ~~license~~ license in that location. ~~One~~ The branch office license is issued in the name of the firm or ~~proprietor~~ sole-proprietor broker and ~~one is issued in the name of the designated broker or broker associate assigned to supervise the branch office~~ shall include the license number and the physical address of the branch office. ~~(EXCEPTION: A sole-proprietor broker who is the designated broker for a branch office location and not the main office location is required to display only one branch office license in that location.)~~ The main office and every branch office shall be directly supervised by a broker or broker associate assigned to that location as the designated broker. ~~No broker or broker associate shall be the designated broker of more than one location.~~ The branch office license shall be issued at a reduced fee and shall have the same expiration date of the primary license.

7.1(4) No change.

7.1(5) A licensed officer of a corporation or partnership may be licensed as an officer or partner of more than one corporation or partnership. The main or primary license for which the full license fee was paid must be maintained in active status to keep any additional licenses that were issued at a reduced fee active and in effect. A broker officer licensed to more than one corporation or partnership may be the designated broker of more than one corporation or partnership.

Continuing education is required only for renewal of the main or primary license.

7.1(6) ~~When the designated broker of a branch office transfers to a different office, terminates employment, or otherwise ceases to be in charge of the branch location, the branch office license must be returned to the commission. A new designated broker for the branch must be assigned before a new branch license can be issued. If the branch office is assigned to a corporation or partnership, the corporation or partnership license displayed in the branch office must also be returned to the commission~~ a branch office closes, notice in writing, electronic or otherwise, shall be given to the commission.

7.1(7) A broker associate employed or engaged to be in charge of the branch office shall have the same responsibilities of supervision of the licensees working from that location as are imposed on the employing, sponsoring, or affiliated broker.

7.1(8) ~~7.1(7)~~ Each actively licensed broker associate and salesperson shall be licensed under a broker.

~~7.1(9)~~ **7.1(8)** A broker associate or salesperson shall not be licensed under more than one broker during the same period of time.

ITEM 2. Amend rule 193E—7.2(543B) as follows:

193E—7.2(543B) Notification required.

7.2(1) Partnerships, associations, and corporations are required to obtain a license before acting as a real estate broker. Failure of a broker to inform the commission in writing, electronic or otherwise, within five working days that the broker has formed a new partnership, association or corporation, or has changed the type of the business, is prima facie evidence of a violation of Iowa Code section 543B.1.

7.2(2) Failure of a broker to inform the commission in writing, electronic or otherwise, within five working days of a change in type of license as ~~proprietor~~ sole-proprietor broker, partner, officer or broker associate is prima facie evidence of a violation of Iowa Code sections 543B.1 and 543B.29(1).

7.2(3) Failure of a broker to inform the commission in writing, electronic or otherwise, within five working days of a change of address of a proprietorship, partnership, or corporation is prima facie evidence of a violation of Iowa Code section 543B.32.

7.2(4) Failure of a broker to return a license or make a reasonable effort to deliver, ~~or mail, preferably by certified mail, a~~ or electronically submit the license to the commission office to ensure that it is

received within 72 hours after a salesperson or broker associate is discharged or terminates employment is prima facie evidence of a violation of Iowa Code section 543B.33.

~~7.2(5) Each real estate broker who returns a license to the commission office shall include the last known permanent mailing address of the licensee.~~

~~7.2(6)~~ **7.2(5)** Failure of a licensee to inform the commission in writing, electronic or otherwise, within five working days of a change of residence address or mailing address is prima facie evidence of a violation of Iowa Code sections 543B.16 and 543B.18.

~~7.2(7)~~ **7.2(6)** When a broker is notified that a license is inactive, suspended, revoked, or canceled, the broker shall ~~return the license or mail the license, preferably by certified mail, to the commission office and make every~~ make a reasonable effort to deliver, mail, or electronically submit the license to ensure that the license is received by the commission within 72 hours after notification.

ITEM 3. Amend rule 193E—7.3(543B) as follows:

193E—7.3(543B) Suspended and revoked licenses. A suspended or revoked license must be returned to the commission as provided in Iowa Code section 543B.33 and subrule ~~7.2(7)~~ **7.2(6)**.

7.3(1) No change.

7.3(2) When a sole-proprietor broker, corporation or partnership license is suspended or revoked, all licensees associated with or assigned to that sole-proprietor broker, corporation or partnership shall automatically be placed on inactive status for the duration of the suspension or revocation, unless transferred to another sole-proprietor broker, corporation or partnership.

a. The broker whose license is suspended or revoked shall return, before or immediately upon the effective date of the suspension or revocation, all licenses that are assigned to or associated with the broker or the firm as provided in Iowa Code section 543B.33 and subrule ~~7.2(7)~~ **7.2(6)**.

b. When a suspension or revocation is determined, the commission shall also determine if the corporation or partnership license shall be automatically ~~placed on inactive status or~~ canceled.

~~*c.* If the broker whose license is suspended or revoked is also the designated broker of a firm or branch office, that firm or branch office shall automatically be placed on inactive status until a new broker is designated.~~

~~*d. c.* If the broker whose license is suspended or revoked is the only licensed broker officer of a corporation, the corporation license will automatically be placed on inactive status~~ canceled.

7.3(3) to 7.3(6) No change.

ITEM 4. Amend rule **193E—16.1(543B)**, definitions of “Distance education” and “Live instruction,” as follows:

“~~Distance education~~ learning” means a planned teaching/learning experience with a geographic separation of student and instructor that utilizes a wide spectrum of technology-based systems, including computer-based instruction, to reach learners at a distance. Home-study courses that include written materials, exercises and tests mailed to the provider for review are included in this definition.

“*Live instruction*” means an educational program delivered in a traditional classroom setting or by electronic means whereby the instructor and student have real-time visual and audio contact to carry out their essential tasks ~~while together~~.

ITEM 5. Amend rule 193E—16.2(543B) as follows:

193E—16.2(543B) Salesperson prelicense and postlicense requirements.

16.2(1) Required course of study.

a. The required course of study for the salesperson licensing examination shall consist of 60 ~~classroom live instruction or computer-based distance learning~~ hours of real estate principles and practices to comply with the requirements of Iowa Code section 543B.15. The curriculum shall include, but not be limited to, the following subjects:

Introduction to Real Estate and Iowa License Law	12 hours
Ownership, Encumbrances, Legal Descriptions, Transfer of Title and Closing	12 hours
Contracts, Agency and Antitrust	12 hours

Valuation, Finance and Real Estate Math 12 hours
 Property Management/Leasing, Fair Housing, Environmental Risks
 and Health Issues 12 hours

b. At the time of submission of an application, an applicant applying for an original salesperson license must also provide evidence of the following live instruction courses: 12 hours of Developing Professionalism and Ethical Practices, 12 hours of Buying Practices and 12 hours of Listing Practices. All the required education must be completed during the 12 months prior to the date the application is postmarked or received.

~~16.2(2)~~ Maintaining active status. All first-time salespersons renewing licenses to maintain active status shall complete 36 commission-approved classroom hours by December 31 of the third year of licensure. The following courses satisfy the first license renewal continuing education requirement:

Developing Professionalism and Ethical Practices 12 hours
 Buying Practices 12 hours
 Listing Practices 12 hours

~~16.2(3)~~ Beginning January 1, 2009, and thereafter, an applicant applying for an original salesperson license must provide evidence of successful completion of the following courses: 12 hours of Developing Professionalism and Ethical Practices, 12 hours of Buying Practices and 12 hours of Listing Practices. This education is in addition to the 60-hour salesperson prelicense course. The applicant must complete all the required education during the 12 months prior to the date of application.

~~16.2(4)~~ All salespersons licensed on January 1, 2009, or thereafter, as a requirement of license renewal and to maintain active status, must complete a minimum of 36 hours of approved courses. The continuing education must be completed during the three calendar years of the license term and cannot be carried over to another license term. Approved courses in the following subjects shall be completed to renew to active status: 8 hours of Law Update, 4 hours of Ethics and 24 hours of electives.

~~16.2(5)~~ **16.2(2)** Completion of prelicense education. Successful completion of the salesperson prelicense education includes passage of an examination(s) designed by the approved provider that is sufficiently comprehensive to measure the student's knowledge of all aspects of the course(s). Times allotted for examinations may be regarded as hours of instruction.

~~16.2(6)~~ **16.2(3)** Substitution of courses. Written requests for substitution of the salesperson prelicense and postlicense education courses specified in 16.2(1), ~~16.2(2)~~ and ~~16.2(3)~~ may be granted if the applicant submits evidence of successful completion of a course or courses which are substantially similar to the courses specified in 16.2(1), ~~16.2(2)~~ and ~~16.2(3)~~. ~~Any course~~ Courses completed more than 12 months prior to commission consideration for approval shall not qualify for substitution.

ITEM 6. Renumber subrules **16.3(2)** and **16.3(3)** as **16.3(3)** and **16.3(4)**.

ITEM 7. Adopt the following **new** subrule 16.3(2):

16.3(2) *Required course of study beginning January 1, 2020.* Beginning January 1, 2020, the required course of study to take the broker examination shall consist of at least 60 classroom hours. Approved courses shall be completed within 24 months prior to the applicant's taking the broker examination and shall include the following subjects:

Contract Law and Contract Writing 6 hours
 Iowa Real Estate Trust Accounts 6 hours
 Principles of Appraising and Market Analysis 6 hours
 Real Estate Law and Agency Law 6 hours
 Real Estate Finance 6 hours
 Federal and State Laws Affecting Iowa Practice 6 hours
 Real Estate Office Organization, Administration and Human Resources 12 hours
 Real Estate Technology and Data Security 6 hours
 Ethics and Safety Issues for Brokers 6 hours

ITEM 8. Amend renumbered subrule 16.3(3) as follows:

16.3(3) *Completion of prelicense education.* Successful completion of the broker prelicense education includes passage of an examination(s) designed by the approved provider that is sufficiently

comprehensive to measure the student's knowledge of all aspects of the course(s). Times allotted for examinations may be regarded as hours of instruction. ~~Effective January 1, 2005, and thereafter, all persons applying for a broker license within their first renewal term must complete the 36-hour salesperson postlicense courses, including 12 hours of Developing Professionalism and Ethical Practices, 12 hours of Buying Practices and 12 hours of Listing Practices, before a broker license can be issued.~~

ITEM 9. Amend rule 193E—16.4(543B) as follows:

193E—16.4(543B) Continuing education requirements.

16.4(1) No change.

16.4(2) As a requirement of license renewal in an active status, each real estate licensee shall complete a minimum of 36 hours of approved programs, courses or activities. The continuing education must be completed during the three calendar years of the license term and cannot be carried over to another license. Approved courses in the following subjects shall be completed to renew a license to active status, ~~except in accordance with 16.2(2):~~

Law Update	8 hours
Ethics	4 hours
Electives	24 hours

16.4(3) No change.

16.4(4) A maximum of 24 hours of continuing education may be taken by distance ~~education~~ learning each three-year renewal period.

16.4(5) A licensee unable to attend educational offerings because of a disability may make a written request to the commission setting forth an explanation and verification of the disability. Licensees making requests must meet the definition of a person with a disability found in the Americans with Disabilities Act as amended by the ADA Amendments Act of 2008 (ADAAA).

16.4(6) No change.

ITEM 10. Amend rule 193E—16.5(543B) as follows:

193E—16.5(543B) Continuing education records. Applicants for license renewal pursuant to Iowa Code section 543B.15 shall certify that the number of hours of continuing education required to renew a license was completed as described in ~~16.2(2) and~~ 193E—16.4(543B).

16.5(1) The commission will verify by random audit or on a test basis the education claimed by the licensee. It shall be the responsibility of the licensee to maintain records that support the continuing education claimed and the validity of the credits. Documentation shall be retained by the licensee for a period of three years after the effective date of the license renewal.

16.5(2) It will not be acceptable for a licensee to ~~complete the required continuing education after the fact, pursuant to 16.2(5) and 16.3(3) include on a renewal application continuing education which has not yet been completed, is outside the renewal period, or for which prior approval or postapproval has not been previously approved.~~

16.5(3) No change.

16.5(4) Filing a false affirmation is prima facie evidence of a violation of Iowa Code ~~sections~~ section 543B.29(1) and (3).

ITEM 11. Amend rule 193E—16.7(543B) as follows:

193E—16.7(543B) Full-time attendance. Successful completion of continuing education requires full-time attendance throughout the program, course or activity. A student who arrives late, leaves during class or leaves early ~~shall~~ may not receive a certificate.

ITEM 12. Amend rule 193E—16.8(543B) as follows:

193E—16.8(543B) Education requirements for out-of-state licensees. ~~Subrules 16.2(2) and Subrule 16.4(2)~~ shall apply to every Iowa real estate licensee unless exempted by Iowa Code ~~subsection~~ section 272C.2(5).

ITEM 13. Amend rule 193E—16.9(543B) as follows:

193E—16.9(543B) Examination as a substitute for continuing education.

16.9(1) A salesperson may satisfy all continuing education deficiencies by taking and passing the real estate salesperson examination. An authorization letter must be obtained from the commission prior to scheduling the examination with the examination administrator.

a. and b. No change.

16.9(2) A broker may satisfy all continuing education deficiencies by taking and passing the real estate broker examination. An authorization letter must be obtained from the commission prior to scheduling the examination with the examination administrator. If the broker takes and passes the broker examination within the six months immediately preceding the expiration of the license, the broker examination score report may be substituted for the required hours of continuing education credits for the current license term and will satisfy all previous deficiencies.

ITEM 14. Amend rule 193E—16.10(543B) as follows:

193E—16.10(543B) Use of prelicense and postlicense courses as continuing education.

16.10(1) Salespersons and brokers may take up to 24 hours of the salesperson prelicense ~~and postlicense~~ courses specified in 16.2(1) ~~and 16.2(2)~~ as continuing education. However, a newly licensed salesperson cannot use credits from the salesperson prelicense course(s) to meet the continuing education requirement of the first renewal term.

16.10(2) and 16.10(3) No change.

ITEM 15. Amend rule 193E—16.11(543B) as follows:

193E—16.11(543B) Requests for prior approval or postapproval of a course(s). A licensee seeking credit for attendance and participation in a course, program, or other continuing education activity that is to be conducted by a school not otherwise approved by the commission may apply for approval to the commission at least 21 days in advance of the beginning of the activity. The commission shall approve or deny the application in writing within 14 days of receipt of the application.

16.11(1) The application for prior approval of a course or an activity shall include the following information:

1. School or organization or person conducting the activity.
2. Location of the activity.
3. Title and brief description of the activity or title and course outline.
4. Credit hours requested.
5. Date of the activity.
6. Principal instructor(s).

16.11(2) The application for postapproval of a course or an activity shall include the following information:

1. School, firm, organization or person conducting the activity.
2. Location of the activity.
3. Title, ~~and~~ description of activity, and course outline.
4. Credit hours requested for approval.
5. Date of the activity.
6. Principal instructor(s).
7. Verification of attendance.

ITEM 16. Amend subrule 17.1(3) as follows:

17.1(3) Evidence of compliance with or exemption from Iowa Code sections ~~714.14~~ 714.18 to 714.25 must be furnished to the commission.

ITEM 17. Amend rule 193E—17.2(543B) as follows:

193E—17.2(543B) Certificates of attendance.

17.2(1) Each approved school under rule 193E—17.1(543B) shall provide an individual certificate of attendance to each licensee upon completion of the program, course, or activity. The certificate shall contain the following information:

- a. School name and number;
- b. Program, course or activity name and number;
- c. Name and address of licensee;
- d. Date on which the program, course or activity was completed;
- e. Number of approved credit hours;
- f. Signature of coordinator or other person authorized by the commission; and
- g. A notation as to whether credit hours are to be used as ~~prelicense~~ distance learning or as ~~continuing education~~ live instruction.

17.2(2) and **17.2(3)** No change.

17.2(4) An attendance certificate shall not be issued to a licensee who is absent from a continuing education program, course, or activity. The program, course, or activity must be completed in its entirety. A student who arrives late, leaves during class or leaves early ~~shall~~ may not receive an attendance certificate.

ITEM 18. Rescind subrule **17.6(3)**.

ITEM 19. Renumber subrules **17.6(4)** to **17.6(6)** as **17.6(3)** to **17.6(5)**.

ITEM 20. Amend rule 193E—17.10(543B) as follows:

193E—17.10(543B) Standards for approval of distance ~~education~~ learning courses. The commission may approve distance ~~education~~ learning courses, subject to the following requirements:

17.10(1) to **17.10(3)** No change.

17.10(4) The course must be designed to ensure that student progress is evaluated at appropriate intervals and mastery of the material is achieved before a student can progress through the course material.

a. Students completing distance learning continuing education must complete a final examination containing 10 questions for a one-hour course, 20 questions for a two-hour course, 30 questions for a three-hour course, 40 questions for a four-hour course, and 60 questions for a six- or eight-hour course.

b. A passing score of 80 percent is required for course credit to be granted. There is no limit to the number of times a final examination may be taken to achieve a passing score.

17.10(5) to **17.10(12)** No change.

ITEM 21. Amend rule 193E—17.11(543B) as follows:

193E—17.11(543B) Standards for approval of paper and pencil home-study courses. The commission may approve paper and pencil home-study courses, subject to the following requirements:

17.11(1) to **17.11(3)** No change.

17.11(4) ~~Final examinations must contain a minimum of 30 questions for a three-hour course and 60 questions for a six-hour course.~~ Students completing paper and pencil home-study continuing education must complete a final examination containing 10 questions for a one-hour course, 20 questions for a two-hour course, 30 questions for a three-hour course, 40 questions for a four-hour course, and 60 questions for a six- or eight-hour course.

17.11(5) A passing score of ~~90~~ 80 percent is required for course credit to be granted. There is no limit to the number of times a final examination may be taken to achieve a passing score.

17.11(6) to 17.11(11) No change.